

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

ODEANA FREDRICK FIELDS,

Petitioner,

vs.

WARDEN LEONEAL DAVIS and
THE ATTORNEY GENERAL FOR THE
STATE OF ALABAMA,

Respondents.

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CIVIL ACTION NO. 01-RRA-3115-NE

MEMORANDUM OPINION

This is a habeas corpus petition. The magistrate judge entered a report and recommendation recommending that the respondents' motion for summary judgment be granted and the action dismissed. The petitioner filed objections on December 12, 2005, complaining that he was not allowed to respond to the respondents' answer to his petition. By order entered December 15, 2005, the court set out the following:

The court notes that by order entered May 10, 2002, the petitioner was notified that the respondents' answer would be treated as a motion for summary judgment and he was afforded twenty days in which to respond to the answer. That order was mailed to the petitioner at his then-current address, and that mail was not returned to the court.¹ However, the court will afford the petitioner another chance to respond to the respondents' answer.

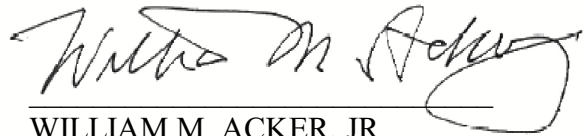
The petitioner was allowed until December 22, 2005, to file a response and was informed that "[i]n the event the petitioner fails to file a timely response, the court will proceed with the case on the report and recommendation that now exists."

¹ The clerk is DIRECTED to attach to this order, a copy of the court's May 10, 2002 order (court document 10), along with the mailing certificate.

To date, the petitioner has filed nothing in response to the respondents' motion for summary judgment. Thus, the court is proceeding with the case on the report and recommendation. The court has considered the entire file in this action, including the report and recommendation and the petitioner's objections to the report and recommendation, and has reached an independent conclusion that the report and recommendation is due to be adopted and approved.

Accordingly, the court hereby adopts and approves the findings and recommendation of the magistrate judge as the findings and conclusions of the court. This habeas petition is due to be dismissed. An appropriate order will be entered.

Done this 3rd day of January, 2006.



WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE